

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DEJWAN SIMMS,

Plaintiff,

v.

EDWARDS, *et al.*,

Defendants.

Case No. 1:22-cv-00028-JLT-BAM (PC)

ORDER DIRECTING PLAINTIFF TO
PROVIDE WRITTEN NOTICE
IDENTIFYING DEFENDANT
CORRECTIONAL OFFICER #1 FOR
SERVICE OF PROCESS

NINETY (90) DAY DEADLINE

Plaintiff Dejwan Simms (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 8, 2022, the Court ordered that this action proceed on Plaintiff’s complaint against Defendants Edwards and Correction Officer #1 for deliberate indifference to medical needs and for failure to protect, in violation of the Eighth Amendment, for the events surrounding the transport back to North Kern State Prison on October 16, 2020. (ECF No. 10.) By separate order, the Court has directed service of the complaint on Defendant Edwards.

At this time, the Court does not find service appropriate for Defendant Correction Officer #1 because the U.S. Marshal cannot serve a Doe Defendant. Therefore, before the Court orders the U.S. Marshal to serve Defendant Correction Officer #1, Plaintiff will be required to identify them with enough information to locate the defendant for service of process. Once Plaintiff identifies Defendant Correction Officer #1 for service, he should file a motion to substitute the

1 identity of Defendant Correction Officer #1 in the complaint. If the motion is granted, the Court
2 will direct the U.S. Marshal to serve Defendant Correction Officer #1. However, if Plaintiff fails
3 to identify Defendant Correction Officer #1, then the unidentified defendant will be dismissed
4 from this action.

5 Accordingly, IT IS HEREBY ORDERED as follows:

- 6 1. Within **ninety (90) days** from the date of service of this order, Plaintiff SHALL file a
7 motion to substitute the identity of Defendant Correction Officer #1 that provides the
8 Court with enough information to locate them for service of process; and
9 2. **The failure to comply with this order will result in dismissal of the unidentified**
10 **defendant from this action, without prejudice, for failure to serve with process**
11 **pursuant to Federal Rule of Civil Procedure 4(m).**

12
13 IT IS SO ORDERED.

14 Dated: March 8, 2022

15 /s/ Barbara A. McAuliffe
16 UNITED STATES MAGISTRATE JUDGE
17
18
19
20
21
22
23
24
25
26
27
28